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10/748,702	12/29/2003	Bhaskar Jayakrishnan	10559-908001 / P17956	2141
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FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER PHAM, BRENDA H	
			ART UNIT	PAPER NUMBER
			2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,702

Applicant(s)

JAYAKRISHNAN ET AL.

Examiner

Brenda Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-26 are pending in the application.

Claim Objections

2. Claims 8-14 are objected to because of the following informalities: "A computer program product, tangibly embodied in a computer readable medium, the computer program product being operable to cause a machine to:" should be corrected to "A computer program product, tangibly embodied in a computer readable medium, when executed by a computer which causes the computer to:" Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Rom et al (US 6,252,849 B1).

Regarding claims 1, 5, 8, 12, 15, 18, 21 and 24, Rom et al discloses a system and method comprising:

receiving a packet at a first switching device from a location operatively coupled to the first switching device, the packet for packet transmission to a second switching

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device operatively coupled to the first switching device (col. 3 lines 55-67, "The switches, information packet generators, and information packet sinks are operably coupled to one another via network links. These network links may include twisted pair cable, coaxial cable, fiber optic cable, or other mechanisms for transmitting information packets....the links are full duplex links or are bidirectional. Information packets can be exchanged in both directions between one switch and another switch or generator/sink. For example, switches 121 and 123 are coupled via link 131 in which information packets are provided from switch 121 to switch 123 via link 131 A of link 131 and packet are provided from switch 123 from switch 121 via link 131 B of link 131."); and

receiving a message on the first switching device from the second switching device, the message indicating to slow packet transmission to the second switching device. (see figure 1-3, col. 5, lines 1-50, Rom et al teach "A PAUSE frame (a message) is provided to an information packet source (first switch) by a downstream destination (second switch) to inhibit transmission of information packet such as information frames by the information packet source (first switch) to the downstream destination (second switch) for a specified period of time...the PAUSE frame contains a PAUSE opcode field and a time parameter field which contains a time parameter specifying an amount of time (in units of 64 bytes transmission time on a specified link) that an upstream information packet source (first switch) must hold its transmission activity.")

Regarding claims 2-4 and 6-7, 9-11, 13-14, 19-20, 22-23 and 25-26, Rom et al further teaches slowing packet transmission from the first switching device to a congested port in the second switching device (col. 5 line 45-52, **"When the level of occupancy of a portion of the buffer allocated to an input port exceeds a first level or threshold, the switch provides a control signal to the upstream source (first switch) operably coupled to the input port to inhibit information packet transmission to the input port. Such a system advantageously allows for a fair usage of the output ports of a switch among all input ports of the switch."**)

NOTE: Examiner does not give patentable weight to "operable to" clause (see claims 8, 9, 10, 12 and 13), "configured to" clauses (see claim 18, 19 and 21), "capable of" (see claims 22, 24 and 25) because such claimed language that suggests or make optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim limitation.

Response to Arguments

5. Applicant's arguments filed 08/08/07 have been fully considered but they are not persuasive. Applicants argued in the REMARKS, page 10 that "Rom does not describe that the control signal to inhibit packet transmission is transmitted by a second switching device and received on a first switching device. Examiner respectfully disagrees because Rom indeed teaches this limitation.

Rom teaches a network switch (see figure 1) where information packets are transmitting from one switch to another switch (see col. 3, lines 55-67). In the time of congestion in the destination switch (second switch), a PAUSE frame is transmitted to the source switch (first switch) to hold its transmission of information packets to the destination switch (second switch). Examiner believes Rom et al teaches all the claimed limitations recite in the claims.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild, can be reached on (571) 272-2092.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

September 20, 2007

Brenda Pham

A handwritten signature in cursive script that reads "Brenda A. Pham".

**BRENDA PHAM
PRIMARY EXAMINER**